

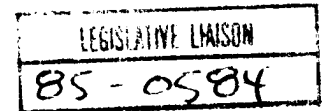
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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

February 22, 1985

**SPECIAL**



LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-  
Central Intelligence Agency  
National Security Council  
Department of Defense  
Department of Justice

**Record**

*LYG*

SUBJECT: State draft report on S. 12, the "Foreign Surveillance Prevention Act of 1985."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than  
TUESDAY, MARCH 12, 1985.

Questions should be referred to T.Lawler/S.Thau (395-7300)  
the legislative analyst in this office.

*Ronald K. Peterson*  
RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference

Enclosures

cc: S. Dotson

J. Barie

A. Donahue

C. Kolb

**SPECIAL**

United States Department of State

Washington, D.C. 20520



FEB 13 1985

Dear Mr. Stockman:

In accordance with established procedure, there is transmitted herewith a proposed report on S. 12, a bill "to protect communications among Americans from interception by foreign governments, and for other purposes."

Please inform the Department whether there is any objection to the submission of this report,

Sincerely,

Robert F. Turner  
Acting Assistant Secretary  
Legislative and Intergovernmental Affairs

The Honorable  
David A. Stockman, Director,  
Office of Management and Budget.

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II

99TH CONGRESS  
1ST SESSION

## S. 12

To protect communications among Americans from interception by foreign governments, and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

JANUARY 3, 1985

Mr. MOYNIHAN introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To protect communications among Americans from interception by foreign governments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. That this Act may be cited as the "Foreign  
4 Surveillance Prevention Act of 1985".

5 SEC. 2. The Congress finds that—

6 (1) the widespread use of electronic surveillance  
7 and the interception of telecommunications by foreign  
8 governments pose a serious threat both to the national  
9 security of the United States and to the rights of priva-

1       cy and association guaranteed to Americans by the  
2       Constitution;

3           (2) that such electronic intelligence activities by  
4       foreign governments have been, and are being, carried  
5       on under the guise of normal diplomatic relations with  
6       the United States; and

7           (3) that the President of the United States, consti-  
8       tutionally charged with the conduct of the Nation's for-  
9       eign relations and with the protection of the Constitu-  
10      tion of the United States, has the primary responsibil-  
11      ity to protect the rights and interests of American citi-  
12      zens as they may be jeopardized by the electronic en-  
13      telligence activities of foreign powers.

14      SEC. 3. Whenever the President of the United States  
15      has reason, based upon information in his possession, to be-  
16      lieve that in any State of the United States, the District of  
17      Columbia, the Commonwealth of Puerto Rico, or any terri-  
18      tory or possession of the United States, any individual on  
19      whom diplomatic immunity has been conferred by the United  
20      States, is willfully engaging in electronic surveillance on  
21      behalf of a foreign power, the President shall—

22           (a) so inform the chairman and ranking minority  
23      member, or, in his discretion, the members of the Com-  
24      mittee on the judiciary of the House of Representa-  
25      tives, the Committee on the Judiciary of the Senate,

1 the Select Committee on intelligence of the Senate,  
2 and the Select Committee on Intelligence of the House  
3 of Representatives;

4 (b) so inform those persons, if any, reasonably be-  
5 lieved to be particular targets of such surveillance in  
6 order that they may take such precautions as they con-  
7 sider advisable, unless he shall determine that to do so  
8 would seriously compromise sources or methods of in-  
9 telligence gathering by the United States;

10 (c) so inform the Ambassador or Charge d'Affairs  
11 or other representative of such foreign power, and shall  
12 demand that such foreign power immediately cease  
13 such surveillance, unless he shall determine that to do  
14 so would seriously compromise sources or methods of  
15 intelligence gathering by the United States; and

16 (d) thirty days after such demand is made, if the  
17 electronic surveillance has not ceased, declare such in-  
18 dividual to be persona non grata in the United States,  
19 and shall demand that he leave the United States im-  
20 mediately, unless the President shall determine that to  
21 do so would cause serious damage to the national secu-  
22 rity of the United States.

23 SEC. 4. DEFINITIONS.—As used in this Act—

1 (a) "electronic surveillance" means the interception  
2 tion of wire or radio communications through the use  
3 of any electronic, mechanical, or other device;

4 (b) "wire or radio communication" means any  
5 communication made in whole or in part through the  
6 use of facilities for the transmission of communications  
7 by the aid of wire, radio, cable, or other like connection  
8 between the point of origin and the point of reception  
9 furnished or operated by any person engaged as a  
10 common carrier in providing or operating such facilities  
11 for the transmission of interstate or foreign communications;  
12

13 (c) "person" means any individual, partnership,  
14 association, joint stock company, trust, or corporation;

15 (d) "electronic, mechanical, or other device"  
16 means any device or apparatus which can be used to  
17 intercept a wire or radio communication other than any  
18 telephone or telegraph instrument, equipment or facility,  
19 or any component thereof, furnished to the subscriber  
20 or user by a communications common carrier in  
21 the ordinary course of its business and being used by  
22 the subscriber or user in the ordinary course of its  
23 business;

24 (e) "foreign power" means—



5

1 (i) a foreign government or any component  
2 thereof, whether or not recognized by the United  
3 States;

4 (ii) a faction of a foreign nation or nations,  
5 not substantially composed of United States per-  
6 sons;

7 (iii) an entity, which is openly acknowledged  
8 by a foreign government or governments to be di-  
9 rected and controlled by such foreign government  
10 or governments;

11 (iv) a foreign-based political organization, not  
12 substantially composed of United States persons;  
13 or

14 (v) an entity which is directed and controlled  
15 by a foreign government or governments; and

16 (f) "common carrier" shall have the same  
17 meaning which is given the term by section  
18 153(h) of title 47 of the United States Code.

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